

Appl. No. 10/698,910
Response Dated August 12, 2005
Reply to Office Action of April 12, 2005

Amendments to the Drawings:

Please amend FIG. 2 as indicated on the attached replacement sheet. The attached sheet replaces original sheet 2/4 including FIG. 2. As requested by the Examiner, element 218 of FIG. 2 has been changed to "Control Module."

REMARKS

In the specification, paragraph [0022] has been amended to identify element 126. The abstract has been amended to add further detail. In amended FIG. 2, the element 128 has been labeled "Control Module." The antecedent basis problems noted by the Examiner have been addressed.

Claims 1-12 and 14-33 are pending in the present application. Claims 1, 2, 4, 5, 7, 10, 14, 20, 22, 25, 26-29, and 31 have been amended. Claim 13 has been canceled. No new matter has been added. Favorable reconsideration and allowance of the pending claims are respectfully requested.

Independent claim 1 has been amended to recite "determining whether to generate an alarm if a security tag is detected by receiving a third signal comprising a combination of said first and second signals from a first security tag of said first type and filtering said third signal to remove frequency components of said first signal."

Independent claim 10 has been amended to recite "transmitting a third signal comprising a combination of said first and second signals from said first security tag to a reader system in response to said first and second signals, said reader system configured to filter said third signal to remove frequency components of said first signal."

Independent claim 14 has been amended to recite "a reader system to connect to said transceiver and to determine whether either security tag is within said interrogation zone by receiving a third signal comprising a combination of said first and second signals from said first security tag and filtering said third signal to remove frequency components of said first signal."

Independent claim 20 has been amended to recite “a reader system to connect to said transceiver and configured to detect different security tags within said interrogation zone by receiving a third signal comprising a combination of said first and second signals and filtering said third signal to remove frequency components of said first signal.”

Independent claim 26 has been amended to recite “instructions that, when executed by a processor, result in...determining whether to generate an alarm if a security tag is detected by receiving a third signal comprising a combination of said first and second signals from a first security tag of said first type and filtering said third signal to remove frequency components of said first signal.”

In the Office Action, claims 1, 2, 4, 14-16, 18, 20, 23, 26 and 27 were rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent Number (USPN) 4,464,090 to Mawhinney (“Mawhinney”). Applicant traverses the rejection, and requests reconsideration and withdrawal of the § 102(b) rejection.

In order to anticipate a claim under 35 U.S.C. § 102(b), the cited reference must teach every element of the claim. *See e.g.* MPEP § 2131. Applicant submits that Mawhinney fails to teach or suggest each and every element recited in claims 1, 14, 20, and 26, as amended. Applicant submits that claims 1, 14, 20 and 26 are allowable for at least this reason and that claims 2, 4, 15, 16, 18, 23 and 27 are allowable by virtue of their dependency, as well as on their own merits. Accordingly, removal of the § 102(b) rejection of claims 1, 2, 4, 14-16, 18, 20, 23, 26 and 27 is requested.

Claim 20 was rejected under 35 U.S.C. § 102(b) as being anticipated by USPN 5,446,447 to Carney et al. (“Carney”). Applicant traverses the rejection, and requests reconsideration and withdrawal of the § 102(b) rejection.

Applicant submits that Carney fails to teach or suggest each and every element recited in claim 20, as amended. Applicant submits that claim 20 is allowable for at least this reason. Accordingly, removal of the § 102(b) rejection of claim 20 is requested.

In the Office Action, claims 3 and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mawhinney. Applicant traverses the rejection, and requests reconsideration and withdrawal of the § 103(a) rejection.

To form a *prima facie* case of obviousness under 35 U.S.C. § 103(a) the cited references, when combined, must teach or suggest every element of the claim. *See e.g.* MPEP § 2143.03. Applicant submits that Mawhinney fails to teach or suggest every element recited in independent claims 1 and 26, as amended. As such, Mawhinney is insufficient to establish a *prima facie* case of obviousness with respect to independent claims 1 and 26. If an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See e.g.* MPEP § 2143.03. Applicant submits that claims 3 and 28 are allowable for at least this reason. Accordingly, removal of the § 103(a) rejection of claims 3 and 28 is requested.

Claims 1-6, 22 and 26-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carney. Applicant traverses the rejection, and requests reconsideration and withdrawal of the § 103(a) rejection.

Applicant submits that Carney fails to teach or suggest each and every element recited in independent claims 1, 20 and 26, as amended. As such, Carney is insufficient to establish a *prima facie* case of obviousness with respect to independent claims 1, 20 and 26 as well as dependent claims 2-6, 22, and 27-30. Applicant submits that claims 1-6, 22 and 26-30 are allowable for at least this reason. Accordingly, removal of the

§ 103(a) rejection of claims 1-6, 22 and 26-30 is requested.

Claims 24 and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carney in view of USPN 6,362,738 to Vega ("Vega"). Applicant traverses the rejection, and requests reconsideration and withdrawal of the § 103(a) rejection.

Applicant submits that Carney and Vega, taken alone or in combination, fail to teach or suggest each and every element of independent claim 20, as amended. As such, Carney and Vega, taken alone or in combination, are insufficient to establish a *prima facie* case of obviousness with respect to independent claim 20 as well as dependent claims 24 and 25. Applicant submits that claims 24 and 25 are allowable for at least this reason. Accordingly, removal of the § 103(a) rejection of claims 24 and 25 is requested.

Claims 7, 10, 12, 13, 17, 19, 21 and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mawhinney in view of Vega. Applicant traverses the rejection, and requests reconsideration and withdrawal of the § 103(a) rejection.

Applicant submits that Mawhinney and Vega, taken alone or in combination, fail to teach or suggest each and every element of independent claims 1, 10, 14, 20 and 26, as amended. As such, Mawhinney and Vega, taken alone or in combination, are insufficient to establish a *prima facie* case of obviousness with respect to independent claims 1, 10, 14, 20 and 26 as well as dependent claims 7, 12, 17, 19, 21 and 31. Claim 13 has been canceled. Applicant submits that claims 7, 10, 12, 17, 19, 21 and 31 are allowable for at least this reason. Accordingly, removal of the § 103(a) rejection of claims 7, 10, 12, 17, 19, 21 and 31 is requested.

Claims 8, 9, 32 and 33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mawhinney in view of Vega and further in view of U.S. Patent

Publication 2004/0148226 to Shanahan ("Shanahan"). Applicant traverses the rejection, and requests reconsideration and withdrawal of the § 103(a) rejection.

Applicant submits that Mawhinney, Vega and Shanahan, taken alone or in combination, fail to teach or suggest each and every element of independent claims 1 and 26, as amended. As such, Mawhinney, Vega and Shanahan, taken alone or in combination, are insufficient to establish a *prima facie* case of obviousness with respect to independent claims 1 and 26 as well as dependent claims 8, 9, 32 and 33. Applicant submits that claims 8, 9, 32 and 33 are allowable for at least this reason. Accordingly, removal of the § 103(a) rejection of claims 8, 9, 32 and 33 is requested.

Claim 11 was rejected under § 103(a) as being unpatentable over Mawhinney in view of Vega and further in view of USPN 5,030,087 to Landt et al. ("Landt"). Applicant traverses the rejection, and requests reconsideration and withdrawal of the § 103(a) rejection.

Applicant submits that Mawhinney, Vega and Landt, taken alone or in combination, fail to teach or suggest each and every element of independent claim 10, as amended. As such, Mawhinney, Vega and Landt, taken alone or in combination, are insufficient to establish a *prima facie* case of obviousness with respect to independent claim 10 as well as dependent claim 11. Applicant submits that claim 11 is allowable for at least this reason. Accordingly, removal of the § 103(a) rejection of claim 11 is requested.

Furthermore, Applicant submits that even if the combination of the cited references were to teach or suggest every element of the claimed invention, without motivation to combine the cited references to arrive at the claimed invention, a rejection

based on obviousness under 35 U.S.C. § 103(a) is improper. *See e.g.* MPEP § 2143.01.

In many cases, the Office merely concludes that it would have been obvious to make the alleged combination without providing any reasoning at all as to why the alleged combination would have been desirable to a person of ordinary skill in the art. The Office cannot rely on impermissible hindsight in combining the teachings of the cited references to arrive at the claimed invention. To reach a proper determination of obviousness under 35 U.S.C. § 103(a), the Office must reach its conclusion on the basis of the facts gleaned from the cited references. *See e.g.* MPEP § 2142, for example.

For at least the above reasons, Applicant submits that claims 1-12 and 14-33 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-12 and 14-33 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

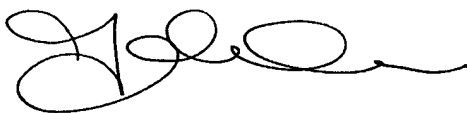
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The Examiner is invited to contact the undersigned at 724-933-3387 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17.

Respectfully submitted,

KACVINSKY LLC



John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to:
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on: August 12, 2005.



Deborah L. Higham

8-12-05
Date

Dated: August 12, 2005

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Appendix including amended FIG. 2.